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August 16, 1955
Opinion No. 55-177

REQUESTED BY: Mr. Sherman Hazeltine, Chairman
Arizona State Hospital Board
Phoenix, Arizona

OPINION BY: ROBERT MORRISON, The Attorney General
H. B. Daniels, Assistant Attorney General

QUESTION: May the medical staff members of the Arizona State Hospital be licensed to practice full time medicine in said hospital without first having taken and passed the examination required by the Basic Science Act?

CONCLUSION: Yes.

The provisions of the Basic Science Act and the Medical Practice Act relating to the issuance of license are these:

Section 67-218, ACA, 1939, as amended:

> "67-218. Callings exempt - * * * Nor shall any provision of this act be construed as applying to persons engaged in the full time practice of medicine for federal, state, county, municipal or other governmental public health departments nor to any person engaged in the full time practice of medicine for federal or state hospitals or institutions. * * * * * *" (Emphasis supplied)

and Section 67-1103, ACA, 1939, as amended

> "67-1103. Certificates to practice.--(a) Three (3) forms of certificates to practice medicine and surgery shall be issued by the board of medical examiners, * * * 1. a certificate to practice as authorized by examination; 2. a reciprocity certificate, and, 3. a temporary license or permit to practice medicine and surgery in the event of an emergency. * * * * * *"

and Section 67-1107, ACA, 1939, as amended

> "67-1107. Penal provisions.--* * * (b) any person who practices, or attempts to practice medicine or surgery, without having a valid recorded license to so practice issued by the state board of medical examiners, is guity of a felony. * * * * *"

If a permit to practice medicine and surgery can be issued to the subject employees of the hospital, it must be done under a plausible construction of the foregoing statutes. It is paramount that the intent of the Legislature be determined, for the intention of the lawmakers is the law, and all else must be subordinated. Valley National Bank of Phoenix v. Apache County, 57 Ariz. 459; Keller v. State, 46 Ariz. 106; State v. McEuen, 42 Ariz. 385.

To resolve the uncertainty and doubts which exist by reason of these statutes, we think the application of a few principles of statutory construction is appropiate. The first of these canons of construction is that the object to be accomplished and the purpose to be subserved ought to be discovered and then a reasonable and liberal construction placed upon the statutes which will best effect this purpose rather then defeat it. State v. Air Research Mfg Co. 68 Ariz. 342; City of Tucson v. Tucson Sunshine Climate Club, 64 Ariz. 1; Garrison v. Luke, 52 Ariz. 50. No less important is the rule that that which is implied in the law is as much a part of the law as that which is expressed. Maricopa County v. Douglas, 69 Ariz. 35; Mahoney v. County of Maricopa, 49 Ariz. 479. Necessary implications and intendments from the language employed in a statute must be resorted to to ascertain the legislative intent. Arizona Corp. Comm. v. Gem State Mut. Ass'n Inc., 72 Ariz. 403. Too, it is well settled that, provided the interpretation is reasonable and not in conflict with legislative intent, effect and meaning must, if possible, be given to the entire statute and every part thereof. City of Prescott v. Randall, 67 Ariz. 369; Moore v. Valley Garden Center, 66 Ariz. 209; State v. Dickens, 66 Ariz. 86; Western Coal & Min. Co. v. Hilvert, 63 Ariz. 171; Kirby v. Griffin, 48 Ariz. 434; Town of Florence v. Webb, 40 Ariz. 60. Also, it is the duty of the Court to reconcile or harmonize as far as practicable, the various parts and provisions, including those which are apparently conflicting, inconsistent and absurd, so as to make them consistent, harmonious and sensible. Powers v. Isley, 66 Ariz. 94; Western Coal and Min. Co. v. Hilvert, supra; Kirby v. Griffin, supra; Hill v. County of Gila, 56 Ariz. 317. Finally, statutes which relate to the same person or thing or to the same class of persons or things, or which have a common purpose are in pari materia, and it is the general rule that in the construction of particular statute and in the interpretation of its provisions, all other statutes in pari materia should be read in connection with it, as together constituting one law, and they should be harmonized, if possible. Frazier v. Terrill, 65 Ariz. 131; 82 CJS 801, Sec. 366, Statutes. Certain statutes which are not strictly in pari materia, such as acts on cognate or allied subjects, may be resorted to and given consideration, since they are within the rationable of the rule permitting reference to statutes in pari materia. Crawford, Statutory Construction, pp. 428-429.

Section 67-218, plainly exempts persons who are practicing medicine in hospitals or institutions under state and federal control from taking basic science examinations. On the other hand, the medical practice act, Section 67-1107, prohibits the practicing of medicine without a license. It would be absurd to reason that the Legislature intended that these employees under discussion should violate the medical practice act. Clearly, the intent of the Legislature is that they should practice medicine under a valid permit. This is made more apparent when these words are read:

> "However, upon the termination of engagement in the full time practice of medicine for federal, state, county, municipal or other governmental public health department or upon the termination of the full time practice of medicine for federal or state hospitals or institutions, all licenses to practice any of the healing arts issued upon the basis of this exemption shall automatically become null and void and shall be reissued only upon satisfying the requirements of this article."

From reading this provision, we think it plain that the implication in the words used by the lawmakers above simply means that the medical men hired to work at the State Hospital should have licenses or permits issued to them. Such a construction is a reasonable one, consistent with legislative intent, and serves to give force and effect to the statute, rather than defeat it.

The license contemplated here is a special type. It is a license which is void upon severance of relation between the licensed practitioner and the hospital. It permits the licensee to practice medicine within the area of the hospital and upon beneficiaries populating the hospital.

The prime object of the act seems to be to employ medical personnel who will practice full time in the hospital to aid the unfortunates therein. Any other construction placed upon these statutes would defeat the object and purpose of the act.

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